



Paper No. 13

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OFFICE OF PETITIONS

In re Application of
Rangan, Worsley, Thaik & Edem
Application No.: 09/173,582
Filed: October 15, 1998
Attorney Docket No.: VN-169RI
For: DATA COMMUNICATION NETWORK
WITH TRANSFER PORT, CASCADE PORT
AND/OR FRAME SYNCHRONIZING SIGNAL

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed May 11, 1999 (certificate of mailing date May 6, 1999). The petition was only recently forwarded to the Office of Petitions. In addition, the decision will address the January 18, 2002 (certificate of mailing date December 10, 2001) submission of a supplemental declaration lacking the signature of all 4 inventors. The January 18, 2002 submission will be treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.67.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.67" and must include an oath or declaration executed by the correct inventive entity. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 15, 1998 without an executed oath or declaration. Accordingly, on November 6, 1998, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a surcharge for their late filing, consent of the assignee to the reissue application, and the assignee's statement establishing ownership of the patent.

In response, on May 11, 1999 (certificate of mailing date May 6, 1999), a petition for a four month extension of time and required fee, a declaration signed by 3 of 4 inventors, the surcharge, consent of the assignee to the reissue application, and the assignee's statement establishing ownership of the patent. The petition states, "To the extent necessary, the Assistant Commissioner may proceed under 37 CFR 1.47."

The last possible date to timely reply to the November 6, 1998 Notice to File Missing Parts of Application was June 6, 1999. Petitioners eventually filed an incomplete, yet executed declaration by the previously non-signing inventor, Geetha N.K. Rangan on June 28, 1999 (certificate of

mailing date June 25, 1999). The declaration on its own was submitted after the extendable deadline, and viewed on its own, is an improper reply to the November 6, 1998 Notice. However, the declaration taken together with a Rule 47 petition is a proper reply to the November 6, 1998 Notice. Therefore, pursuant to petitioners' authorization and in order to avoid abandonment, the Office will view the May 11, 1999 (certificate of mailing date May 6, 1999) correspondence as a petition under 37 CFR 1.47(a). The \$130 petition fee will be charged to deposit account no. 50-0251.

As stated above, Ms. Rangan signed a supplemental declaration that was filed on June 28, 1999 (certificate of mailing date June 25, 1999). All inventors having signed a declaration, this supplemental declaration fixed the inventive entity as four inventors.

The Rule 47 petition is **dismissed as moot** because once all inventors have signed the declaration, there is no issue of a non-signing inventor.

Petitioners are advised that, as yet there is no declaration in compliance with 37 CFR 1.63 of record. As such, petitioners must file a supplemental declaration that contains Ms. Rangan's residence, mailing address and citizenship because it appears that the second supplemental declaration filed on February 21, 2001 is the same supplemental declaration as that filed on June 28, 1999 (certificate of mailing date June 25, 1999), only with the inventor's residence, post office address, and citizenship written in after she signed the first supplemental declaration.

37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or **other alteration** of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." (emphasis added). declaration. For this reason, a newly executed supplemental declaration by Ms. Rangan, listing all 4 inventors and Ms. Rangan's residence, mailing address, and citizenship is **REQUIRED**.

Petitioners filed a supplemental declaration on January 18, 2002 (certificate of mailing date December 10, 2001). The declaration lists only 3 of the 4 inventors. Petitioners request that the supplemental declaration be accepted without co-inventor Richard Thaik's signature. This request is properly treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a). A \$130 petition fee will be charged to petitioners' deposit account for the filing of the petition under 37 CFR 1.183.

While petitioner has provided adequate evidence that Inventor Thaik cannot be located, there is another problem with the declaration. Inventor Edem is omitted. It is unclear as to whether petitioners are attempting to eliminate Inventor Edem or the absence of his information was an oversight.

If petitioners are attempting to eliminate Inventor Edem, petitioners should read MPEP 1412.04 and proceed accordingly.

If petitioners left off Inventor Edem through oversight, the following analysis applies. Absent from the record is a single supplemental oath or declaration which sets forth the names of all 4 inventors. Therefore, the declaration lacks compliance with 37 CFR 1.63(b)(2), for, as of yet, the signing inventors have not executed a declaration naming all 4 inventors. Petitioners must submit an executed substitute declaration which sets forth the names of the four joint inventors and which also includes the citizenship, residence and mailing address of each inventor. If Inventor Edem cannot be reached or refuses to sign the substitute declaration, then evidence of that fact must be submitted.

Clarification of petitioners' intent is required.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a) for a supplemental oath or declaration is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail until 05/01/03: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By mail on or after 05/01/03: Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
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Telephone inquiries should be directed to the undersigned at (703) 308-6712.



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